

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

THE D&M CAPITAL GROUP, LLC,

Debtor.

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S.B. DIAMOND CORP.,

Plaintiff,

-against-

ESSEX GLOBAL TRADING, INC., and THE D&M
CAPITAL GROUP, LLC

Defendants.

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**STIPULATION EXTENDING TIME FOR THE D&M CAPITAL GROUP, LLC
CHAPTER 7 TRUSTEE TO ANSWER, MOVE, OR OTHERWISE RESPOND TO THE
S.B. COMPLAINT**

This Stipulation is made and entered into by and between S.B. Diamond Corp. (“S.B.”), the Plaintiff in the above-captioned adversary proceeding (the “S.B. Action”) and Alan Nisselson, Chapter 7 Trustee (“Trustee”) for The D&M Capital Group, LLC (“D&M” and, with Trustee and S.B., the “Parties”), a Defendant in the S.B. Action.

WHEREAS, on August 6, 2019, before the S.B. Action was filed, D&M filed an amended complaint (the “D&M Amended Complaint”) in an adversary proceeding that is pending before this Court under adversary proceeding number 19-01300 (SCC) (the “D&M Action”); and

WHEREAS, on August 8, 2019, the Clerk of the Court issued an amended summons in the D&M Action; and

WHEREAS, on August 15, 2019, S.B. filed the complaint (the “S.B. Complaint”) commencing the S.B. Action; and

WHEREAS, also on August 15, 2019, the Clerk of the Court issued a summons in the S.B. Action; and

WHEREAS, on or about September 6, 2019, October 10, 2019, November 11, 2019, December 11, 2019, January 16, 2020, February 25, 2020, March 25, 2020, May 10, 2020, June 9, 2020, July 17, 2020, August 20, 2020, September 28, 2020, October 23, 2020 and January 14, 2021, the Parties entered into reciprocal stipulations extending the time for each to answer, move, or otherwise respond to each other’s complaints (the “Prior Stipulations”); and

WHEREAS, pursuant to the Prior Stipulations, the time for S.B to answer, move, or otherwise respond to the D&M Amended Complaint will expire on April 29, 2021, and the time for the Trustee to answer, move, or otherwise respond to the S.B. Complaint will expire on April 29, 2021; and

WHEREAS, by court order dated August 11, 2020 the D&M Chapter 11 bankruptcy proceeding was converted to a Chapter 7 proceeding and on same date the Trustee was appointed as interim trustee for said proceeding; and

WHEREAS, the Parties have agreed to extend the deadlines for responses set forth in the Prior Stipulations and above paragraphs.

IT IS HEREBY STIPULATED BY THE PARTIES THAT:

1. The deadline for S.B. to answer, move, or otherwise respond to the D&M Amended Complaint is July 29, 2021.
2. The deadline for the Trustee to answer, move, or otherwise respond to the S.B. Complaint is July 29, 2021.

3. Notwithstanding this Stipulation, all rights, claims, and defenses of each of the Parties are expressly reserved.

4. This Stipulation may be executed by means of delivery of signature(s) by facsimile or e-mail, and any signature(s) delivered by facsimile or e-mail shall be of the same effect as any original signature(s).

Dated: April 21, 2021

MORRISON COHEN LLP

By: /s/ David J. Kozlowski

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Counsel for S.B. Diamond Corp.

**WINDELS MARX LANE &
MITTENDORF, LLP**

By: /s/ Alan Nisselson

Alan Nisselson, Chapter 7 Trustee
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*Counsel for Alan Nisselson, Chapter 7
Trustee for The D&M Capital Group, LLC*